

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

Return Date: April 26, 2011
Time: 10:00 a.m.

-----X

In re:

RODOLFO A. DIVINCENZO and
YOSELEM G. PINTOS

Chapter 13
Case No.: 111-41664-608

Debtor(s)

NOTICE OF MOTION

-----X

SIRS / MADAMS:

PLEASE TAKE NOTICE, that MICHAEL J. MACCO, Chapter 13 Trustee of the above captioned estate, will move before the Honorable Carla E. Craig, United States Bankruptcy Judge, on the 26th day of APRIL, 2011 at 10:00AM, at the United States Bankruptcy Court located at 271 Cadman Plaza East – Courtroom 3529, Brooklyn, New York 11201, for an Order pursuant to 11 U.S.C. §§§§ 503, 521, 1307(c), & 1326(a)(2), dismissing this case, by reason of the debtor(s)' failure to submit monthly pre-confirmation payments, failure to file and/or provide documents, paying to the Trustee reasonable, necessary costs and expenses, and for such other and further relief as this Court deems just and proper.

PLEASE TAKE FURTHER NOTICE, that answering papers, if any, shall be filed with the Court and served on the undersigned no later than five (5) days prior to the return date of this motion.

Dated: Melville, New York
April 6, 2011

Yours, etc.

MICHAEL J. MACCO
Chapter 13 Trustee
135 Pinelawn Road, Suite 120 South
Melville, New York 11747
(631) 549-7900

To: *Office of the United States Trustee
United States Bankruptcy Court
271 Cadman Plaza East, Suite 4529
Brooklyn, NY 11201*

*Yoselem G. Pintos
9364 204 Street
Hollis, NY 11423*

*Rodolfo A. Divincenzo
9364 204 Street
Hollis, NY 11423*

*Karamvir Dahiya, Esq.
Attorney for Debtor(s)
350 Broadway, Ste. 412
New York, NY 10013*

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X

tmm1634

In re:

RODOLFO A. DIVINCENZO and
YOSELEM G. PINTOS

Chapter 13
Case No.: 111-41664-608

Debtor(s)

APPLICATION

-----X

TO THE HONORABLE CARLA E. CRAIG, UNITED STATES BANKRUPTCY JUDGE:

MICHAEL J. MACCO, Chapter 13 Trustee of the above captioned estate, respectfully represents, as follows:

1. The debtor(s) filed a petition under the provisions of 11 U.S.C. Chapter 13 on March 3, 2011, and thereafter MICHAEL J. MACCO was duly appointed and has qualified as Trustee.
2. As of the date of this motion, the debtor(s) has failed to submit any monthly pre-confirmation payments to the Trustee.
3. In addition, the debtor(s) has failed to provide the Trustee with copies of Personal 2010 State Tax Returns; an amended Chapter 13 Plan; copies of Corporate 2009 & 2010 Federal and State Tax Returns; list of business assets and their fair market value; operating reports with bank statements and proof of tax deposits; an amended Chapter 13 Plan; amended Schedules I & J; March water, electric, and cable bills; tax transcripts from 2007 through 2010; bank statements from all accounts from September 1, 2010 through March 31, 2011 all pages; date 2010 tax refund was received with document proof or turnover 2010 tax refunds upon receipt; a detailed affidavit regarding disputed debts; copy of HUD-1 from 2005 & 2006 refinance; copy of judgment and lien search; and copy of lawsuit from State Court.
4. This is a material default and is prejudicial to the rights of the creditors of the debtor.

WHEREFORE, the Trustee prays for an Order pursuant to the provisions of 11 U.S.C. §§§§ 503, 521, 1307(c), & 1326(a)(2), dismissing this case, and paying to the Trustee reasonable, necessary costs and expenses, and for such other and further relief as this Court deems just and proper.

Dated: Melville, New York
April 6, 2011

/s/ Michael J. Macco
Michael J. Macco, Chapter 13 Trustee
135 Pinelawn Road – Suite 120 South
Melville, New York 11747
(631) 549-7900

STATE OF NEW YORK)
COUNTY OF SUFFOLK) ss.:

LONI BRAGIN, being duly sworn deposes and says: deponent is not a party to this action, is over 18 years of age and resides in Suffolk County, New York.

On April 6, 2011, deponent served the within:

NOTICE OF MOTION AND APPLICATION

upon the following parties, at the addresses designated by said parties for that purpose, by depositing a true copy of same, enclosed in a post-paid, properly addressed wrapper in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York:

*Office of the United States Trustee
United States Bankruptcy Court
271 Cadman Plaza East, Suite 4529
Brooklyn, NY 11201*

*Rodolfo A. Divincenzo
9364 204 Street
Hollis, NY 11423*

*Yoselem G. Pintos
9364 204 Street
Hollis, NY 11423*

*Karamvir Dahiya, Esq.
Attorney for Debtor(s)
350 Broadway, Ste. 412
New York, NY 10013*

/s/ Loni Bragin
LONI BRAGIN

Sworn to before me this
6th day of APRIL, 2011

/s/ Janine M. Zarrilli
NOTARY PUBLIC
Janine M. Zarrilli
Notary Public, State of New York
No. 01ZA5084708
Qualified in Nassau County
Commission Expires September 8, 2013